

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act” meaning Pub. L. 100-300, Apr. 29, 1988, 102 Stat. 437, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note under section 9001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 11610 of Title 42, The Public Health and Welfare.

CHAPTER 98—INTERNATIONAL CHILD ABDUCTION PREVENTION AND RETURN

Sec.

9101. Definitions.

SUBCHAPTER I—DEPARTMENT OF STATE ACTIONS

9111. Annual Report.

9112. Standards and assistance.

9113. Bilateral procedures, including memoranda of understanding.

9114. Report to congressional representatives.

SUBCHAPTER II—ACTIONS BY THE SECRETARY OF STATE

9121. Response to international child abductions.

9122. Actions by the Secretary of State in response to patterns of noncompliance in cases of international child abductions.

9123. Consultations with foreign governments.

9124. Waiver by the Secretary of State.

9125. Termination of actions by the Secretary of State.

SUBCHAPTER III—PREVENTION OF INTERNATIONAL CHILD ABDUCTION

9141. Authorization for judicial training on international parental child abduction.

§ 9101. Definitions

In this chapter:

(1) Abducted child

The term “abducted child” means a child who is the victim of international child abduction.

(2) Abduction

The term “abduction” means the alleged wrongful removal of a child from the child’s country of habitual residence, or the wrongful retention of a child outside such country, in violation of a left-behind parent’s custodial rights, including the rights of a military parent.

(3) Abduction case

The term “abduction case” means a case that—

(A) has been reported to the Central Authority of the United States by a left-behind parent for the resolution of an abduction; and

(B) meets the criteria for an international child abduction under the Hague Abduction Convention, regardless of whether the country at issue is a Convention country.

(4) Access case

The term “access case” means a case involving an application filed with the Central Authority of the United States by a parent seeking rights of access.

(5) Annual Report

The term “Annual Report” means the Annual Report on International Child Abduction required under section 9111 of this title.

(6) Application

The term “application” means—

(A) in the case of a Convention country, the application required pursuant to article 8 of the Hague Abduction Convention;

(B) in the case of a bilateral procedures country, the formal document required, pursuant to the provisions of the applicable arrangement, to request the return of an abducted child or to request rights of access, as applicable; and

(C) in the case of a non-Convention country, the formal request by the Central Authority of the United States to the Central Authority of such country requesting the return of an abducted child or for rights of contact with an abducted child.

(7) Appropriate congressional committees

The term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(8) Bilateral procedures

The term “bilateral procedures” means any procedures established by, or pursuant to, a bilateral arrangement, including a Memorandum of Understanding between the United States and another country, to resolve abduction and access cases, including procedures to address interim contact matters.

(9) Bilateral procedures country

The term “bilateral procedures country” means a country with which the United States has entered into bilateral procedures, including Memoranda of Understanding, with respect to child abductions.

(10) Central Authority

The term “Central Authority” means—

(A) in the case of a Convention country, the meaning given such term in article 6 of the Hague Abduction Convention;

(B) in the case of a bilateral procedures country, the official entity designated by the government of the bilateral procedures country within the applicable memorandum of understanding pursuant to section 9113(b)(1) of this title to discharge the duties imposed on the entity; and

(C) in the case of a non-Convention country, the foreign ministry or other appropriate authority of such country.

(11) Child

The term “child” means an individual who has not attained 16 years of age.

(12) Convention country

The term “Convention country” means a country for which the Hague Abduction Convention has entered into force with respect to the United States.

(13) Hague Abduction Convention

The term “Hague Abduction Convention” means the Convention on the Civil Aspects of

International Child Abduction, done at The Hague October 25, 1980.

(14) Interim contact

The term “interim contact” means the ability of a left-behind parent to communicate with or visit an abducted child during the pendency of an abduction case.

(15) Left-behind parent

The term “left-behind parent” means an individual or legal custodian who alleges that an abduction has occurred that is in breach of rights of custody attributed to such individual.

(16) Non-Convention country

The term “non-Convention country” means a country in which the Hague Abduction Convention has not entered into force with respect to the United States.

(17) Overseas military dependent child

The term “overseas military dependent child” means a child whose habitual residence is the United States according to United States law even though the child is residing outside the United States with a military parent.

(18) Overseas military parent

The term “overseas military parent” means an individual who—

(A) has custodial rights with respect to a child; and

(B) is serving outside the United States as a member of the United States Armed Forces.

(19) Pattern of noncompliance

(A) In general

The term “pattern of noncompliance” means the persistent failure—

(i) of a Convention country to implement and abide by provisions of the Hague Abduction Convention;

(ii) of a non-Convention country to abide by bilateral procedures that have been established between the United States and such country; or

(iii) of a non-Convention country to work with the Central Authority of the United States to resolve abduction cases.

(B) Persistent failure

Persistent failure under subparagraph (A) may be evidenced in a given country by the presence of 1 or more of the following criteria:

(i) Thirty percent or more of the total abduction cases in such country are unresolved abduction cases.

(ii) The Central Authority regularly fails to fulfill its responsibilities pursuant to—

(I) the Hague Abduction Convention; or

(II) any bilateral procedures between the United States and such country.

(iii) The judicial or administrative branch, as applicable, of the national government of a Convention country or a bilateral procedures country fails to regularly implement and comply with the provisions of the Hague Abduction Convention or bilateral procedures, as applicable.

(iv) Law enforcement authorities regularly fail to enforce return orders or determinations of rights of access rendered by the judicial or administrative authorities of the government of the country in abduction cases.

(20) Rights of access

The term “rights of access” means the establishment of rights of contact between a child and a parent seeking access in Convention countries—

(A) by operation of law;

(B) through a judicial or administrative determination; or

(C) through a legally enforceable arrangement between the parties.

(21) Rights of custody

The term “rights of custody” means rights of care and custody of a child, including the right to determine the place of residence of a child, under the laws of the country in which the child is a habitual resident—

(A) attributed to an individual or legal custodian; and

(B) arising—

(i) by operation of law; or

(ii) through a judicial or administrative decision; or

(iii) through a legally enforceable arrangement between the parties.

(22) Rights of interim contact

The term “rights of interim contact” means the rights of contact between a child and a left-behind parent, which has been provided as a provisional measure while an abduction case is pending, under the laws of the country in which the child is located—

(A) by operation of law; or

(B) through a judicial or administrative determination; or

(C) through a legally enforceable arrangement between the parties.

(23) Unresolved abduction case

(A) In general

Subject to subparagraph (B), the term “unresolved abduction case” means an abduction case that remains unresolved for a period that exceeds 12 months after the date on which the completed application for return of the child is submitted for determination to the judicial or administrative authority, as applicable, in the country in which the child is located.

(B) Resolution of case

An abduction case shall be considered to be resolved if—

(i) the child is returned to the country of habitual residence, pursuant to the Hague Abduction Convention or other appropriate bilateral procedures, if applicable;

(ii) the judicial or administrative branch, as applicable, of the government of the country in which the child is located has implemented, and is complying with, the provisions of the Hague Abduction Convention or other bilateral procedures, as applicable;

(iii) the left-behind parent reaches a voluntary arrangement with the other parent;

(iv) the left-behind parent submits a written withdrawal of the application or the request for assistance to the Department of State;

(v) the left-behind parent cannot be located for 1 year despite the documented efforts of the Department of State to locate the parent; or

(vi) the child or left-behind parent is deceased.

(Pub. L. 113–150, § 3, Aug. 8, 2014, 128 Stat. 1809.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 113–150, Aug. 8, 2014, 128 Stat. 1807, known as the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 113–150, § 1(a), Aug. 8, 2014, 128 Stat. 1807, provided that: “This Act [enacting this chapter and section 241 of Title 6, Domestic Security, repealing section 11611 of Title 42, The Public Health and Welfare, and enacting provisions set out as a note under this section] may be cited as the ‘Sean and David Goldman International Child Abduction Prevention and Return Act of 2014.’”

FINDINGS; SENSE OF CONGRESS; PURPOSES

Pub. L. 113–150, § 2, Aug. 8, 2014, 128 Stat. 1807, provided that:

“(a) FINDINGS.—Congress finds the following:

“(1) Sean Goldman, a United States citizen and resident of New Jersey, was abducted from the United States in 2004 and separated from his father, David Goldman, who spent nearly 6 years battling for the return of his son from Brazil before Sean was finally returned to Mr. Goldman’s custody on December 24, 2009.

“(2) The Department of State’s Office of Children’s Issues, which serves as the Central Authority of the United States for the purposes of the 1980 Hague Convention on the Civil Aspects of International Child Abduction (referred to in this Act [see Short Title note above] as the ‘Hague Abduction Convention’), has received thousands of requests since 2007 for assistance in the return to the United States of children who have been wrongfully abducted by a parent or other legal guardian to another country.

“(3) For a variety of reasons reflecting the significant obstacles to the recovery of abducted children, as well as the legal and factual complexity involving such cases, not all cases are reported to the Central Authority of the United States.

“(4) More than 1,000 outgoing international child abductions are reported every year to the Central Authority of the United States, which depends solely on proactive reporting of abduction cases.

“(5) Only about one-half of the children abducted from the United States to countries with which the United States enjoys reciprocal obligations under the Hague Abduction Convention are returned to the United States.

“(6) The United States and other Convention countries have expressed their desire, through the Hague Abduction Convention, ‘to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access.’

“(7) Compliance by the United States and other Convention countries depends on the actions of their

designated central authorities, the performance of their judicial systems as reflected in the legal process and decisions rendered to enforce or effectuate the Hague Abduction Convention, and the ability and willingness of their law enforcement authorities to ensure the swift enforcement of orders rendered pursuant to the Hague Abduction Convention.

“(8) According to data from the Department of State, approximately 40 percent of abduction cases involve children taken from the United States to countries with which the United States does not have reciprocal obligations under the Hague Abduction Convention or other arrangements relating to the resolution of abduction cases.

“(9) According to the Department of State’s April 2010 Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction, ‘parental child abduction jeopardizes the child and has substantial long-term consequences for both the child and the left-behind parent.’

“(10) Few left-behind parents have the extraordinary financial resources necessary—

“(A) to pursue individual civil or criminal remedies in both the United States and a foreign country, even if such remedies are available; or

“(B) to engage in repeated foreign travel to attempt to obtain the return of their children through diplomatic or other channels.

“(11) Military parents often face additional complications in resolving abduction cases because of the challenges presented by their military obligations.

“(12) In addition to using the Hague Abduction Convention to achieve the return of abducted children, the United States has an array of Federal, State, and local law enforcement, criminal justice, and judicial tools at its disposal to prevent international abductions.

“(13) Federal agencies tasked with preventing international abductions have indicated that the most effective way to stop international child abductions is while they are in progress, rather than after the child has been removed to a foreign destination.

“(14) Parental awareness of abductions in progress, rapid response by relevant law enforcement, and effective coordination among Federal, State, local, and international stakeholders are critical in preventing such abductions.

“(15) A more robust application of domestic tools, in cooperation with international law enforcement entities and appropriate application of the Hague Abduction Convention could—

“(A) discourage some parents from attempting abductions;

“(B) block attempted abductions at ports of exit; and

“(C) help achieve the return of more abducted children.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should set a strong example for other Convention countries in the timely location and prompt resolution of cases involving children abducted abroad and brought to the United States.

“(c) PURPOSES.—The purposes of this Act [see Short Title note above] are—

“(1) to protect children whose habitual residence is the United States from wrongful abduction;

“(2) to assist left-behind parents in quickly resolving cases and maintaining safe and predictable contact with their child while an abduction case is pending;

“(3) to protect the custodial rights of parents, including military parents, by providing the parents, the judicial system, and law enforcement authorities with the information they need to prevent unlawful abduction before it occurs;

“(4) to enhance the prompt resolution of abduction and access cases;

“(5) to detail an appropriate set of actions to be undertaken by the Secretary of State to address persistent problems in the resolution of abduction cases;

“(6) to establish a program to prevent wrongful abductions; and

“(7) to increase interagency coordination in preventing international child abduction by convening a working group composed of presidentially appointed and Senate confirmed officials from the Department of State, the Department of Homeland Security, and the Department of Justice.”

SUBCHAPTER I—DEPARTMENT OF STATE ACTIONS

§ 9111. Annual Report

(a) In general

Not later than April 30 of each year, the Secretary of State shall submit to the appropriate congressional committees an Annual Report on International Child Abduction. The Secretary shall post the Annual Report to the publicly accessible website of the Department of State.

(b) Contents

Each Annual Report shall include—

(1) a list of all countries in which there were 1 or more abduction cases, during the preceding calendar year, relating to a child whose habitual residence is the United States, including a description of whether each such country—

- (A) is a Convention country;
- (B) is a bilateral procedures country;
- (C) has other procedures for resolving such abductions; or
- (D) adheres to no protocols with respect to child abduction;

(2) for each country with respect to which there were 5 or more pending abduction cases, during the preceding year, relating to a child whose habitual residence is the United States—

- (A) the number of such new abduction and access cases reported during the preceding year;
- (B) for Convention and bilateral procedures countries—
 - (i) the number of abduction and access cases that the Central Authority of the United States transmitted to the Central Authority of such country; and
 - (ii) the number of abduction and access cases that were not submitted by the Central Authority to the judicial or administrative authority, as applicable, of such country;
- (C) the reason for the delay in submission of each case identified in subparagraph (B)(ii) by the Central Authority of such country to the judicial or administrative authority of that country;
- (D) the number of unresolved abduction and access cases, and the length of time each case has been pending;
- (E) the number and percentage of unresolved abduction cases in which law enforcement authorities have—
 - (i) not located the abducted child;
 - (ii) failed to undertake serious efforts to locate the abducted child; and
 - (iii) failed to enforce a return order rendered by the judicial or administrative authorities of such country;

(F) the total number and the percentage of the total number of abduction and access cases, respectively, resolved during the preceding year;

(G) recommendations to improve the resolution of abduction and access cases; and

(H) the average time it takes to locate a child;

(3) the number of abducted children whose habitual residence is in the United States and who were returned to the United States from—

- (A) Convention countries;
- (B) bilateral procedures countries;
- (C) countries having other procedures for resolving such abductions; or
- (D) countries adhering to no protocols with respect to child abduction;

(4) a list of Convention countries and bilateral procedures countries that have failed to comply with any of their obligations under the Hague Abduction Convention or bilateral procedures, as applicable, with respect to the resolution of abduction and access cases;

(5) a list of countries demonstrating a pattern of noncompliance and a description of the criteria on which the determination of a pattern of noncompliance for each country is based;

(6) information on efforts by the Secretary of State to encourage non-Convention countries—

- (A) to ratify or accede to the Hague Abduction Convention;
- (B) to enter into or implement other bilateral procedures, including memoranda of understanding, with the United States; and
- (C) to address pending abduction and access cases;

(7) the number of cases resolved without abducted children being returned to the United States from Convention countries, bilateral procedures countries, or other non-Convention countries;

(8) a list of countries that became Convention countries with respect to the United States during the preceding year; and

(9) information about efforts to seek resolution of abduction cases of children whose habitual residence is in the United States and whose abduction occurred before the Hague Abduction Convention entered into force with respect to the United States.

(c) Exceptions

Unless a left-behind parent provides written permission to the Central Authority of the United States to include personally identifiable information about the parent or the child in the Annual Report, the Annual Report may not include any personally identifiable information about any such parent, child, or party to an abduction or access case involving such parent or child.

(d) Additional sections

Each Annual Report shall also include—

- (1) information on the number of unresolved abduction cases affecting military parents;
- (2) a description of the assistance offered to such military parents;

(3) information on the use of airlines in abductions, voluntary airline practices to prevent abductions, and recommendations for best airline practices to prevent abductions;

(4) information on actions taken by the Central Authority of the United States to train domestic judges in the application of the Hague Abduction Convention; and

(5) information on actions taken by the Central Authority of the United States to train United States Armed Forces legal assistance personnel, military chaplains, and military family support center personnel about—

(A) abductions;

(B) the risk of loss of contact with children; and

(C) the legal means available to resolve such cases.

(e) Omitted

(f) Notification to Congress on countries in non-compliance

(1) In general

The Secretary of State shall include, in a separate section of the Annual Report, the Secretary's determination, pursuant to the provisions under section 9122(b) of this title, of whether each country listed in the report has engaged in a pattern of noncompliance in cases of child abduction during the preceding 12 months.

(2) Contents

The section described in paragraph (1)—

(A) shall identify any action or actions described in section 9122(d) of this title (or commensurate action as provided in section 9122(e) of this title) that have been taken by the Secretary with respect to each country;

(B) shall describe the basis for the Secretary's determination of the pattern of non-compliance by each country;

(C) shall indicate whether noneconomic policy options designed to resolve the pattern of noncompliance have reasonably been exhausted, including the consultations required under section 9123 of this title.

(Pub. L. 113-150, title I, § 101, Aug. 8, 2014, 128 Stat. 1813.)

CODIFICATION

Section is comprised of section 101 of Pub. L. 113-150. Subsec. (e) of section 101 of Pub. L. 113-150 repealed section 11611 of Title 42, The Public Health and Welfare.

§ 9112. Standards and assistance

The Secretary of State shall—

(1) ensure that United States diplomatic and consular missions abroad—

(A) maintain a consistent reporting standard with respect to abduction and access cases;

(B) designate at least 1 senior official in each such mission, at the discretion of the Chief of Mission, to assist left-behind parents from the United States who are visiting such country or otherwise seeking to resolve abduction or access cases; and

(C) monitor developments in abduction and access cases; and

(2) develop and implement written strategic plans for engagement with any Convention or non-Convention country in which there are 5 or more cases of international child abduction.

(Pub. L. 113-150, title I, § 102, Aug. 8, 2014, 128 Stat. 1815.)

§ 9113. Bilateral procedures, including memoranda of understanding

(a) Development

(1) In general

Not later than 180 days after August 8, 2014, the Secretary of State shall initiate a process to develop and enter into appropriate bilateral procedures, including memoranda of understanding, as appropriate, with non-Convention countries that are unlikely to become Convention countries in the foreseeable future, or with Convention countries that have unresolved abduction cases that occurred before the Hague Abduction Convention entered into force with respect to the United States or that country.

(2) Prioritization

In carrying out paragraph (1), the Secretary of State shall give priority to countries with significant abduction cases and related issues.

(b) Elements

The bilateral procedures described in subsection (a) should include provisions relating to—

(1) the identification of—

(A) the Central Authority;

(B) the judicial or administrative authority that will promptly adjudicate abduction and access cases;

(C) the law enforcement agencies; and

(D) the implementation of procedures to ensure the immediate enforcement of an order issued by the authority identified pursuant to subparagraph (B) to return an abducted child to a left-behind parent, including by—

(i) conducting an investigation to ascertain the location of the abducted child;

(ii) providing protection to the abducted child after such child is located; and

(iii) retrieving the abducted child and making the appropriate arrangements for such child to be returned to the child's country of habitual residence;

(2) the implementation of a protocol to effectuate the return of an abducted child identified in an abduction case not later than 6 weeks after the application with respect to the abduction case has been submitted to the judicial or administrative authority, as applicable, of the country in which the abducted child is located;

(3) the implementation of a protocol for the establishment and protection of the rights of interim contact during pendency of abduction cases; and

(4) the implementation of a protocol to establish periodic visits between a United States embassy or consular official and an abducted child, in order to allow the official to ascertain the child's location and welfare.

(Pub. L. 113–150, title I, §103, Aug. 8, 2014, 128 Stat. 1815.)

§ 9114. Report to congressional representatives

(a) Notification

The Secretary of State shall submit written notification to the Member of Congress and Senators, or Resident Commissioner or Delegate, as appropriate, representing the legal residence of a left-behind parent if such parent—

- (1) reports an abduction to the Central Authority of the United States; and
- (2) consents to such notification.

(b) Timing

At the request of any person who is a left-behind parent, including a left-behind parent who previously reported an abduction to the Central Authority of the United States before August 8, 2014, the notification required under subsection (a) shall be provided as soon as is practicable.

(Pub. L. 113–150, title I, §104, Aug. 8, 2014, 128 Stat. 1816.)

SUBCHAPTER II—ACTIONS BY THE SECRETARY OF STATE

§ 9121. Response to international child abductions

(a) United States policy

It is the policy of the United States—

(1) to promote the best interest of children wrongfully abducted from the United States by—

- (A) establishing legal rights and procedures for their prompt return; and
- (B) ensuring the enforcement of reciprocal international obligations under the Hague Abduction Convention or arrangements under bilateral procedures;

(2) to promote the timely resolution of abduction cases through 1 or more of the actions described in section 9122 of this title; and

(3) to ensure appropriate coordination within the Federal Government and between Federal, State, and local agencies involved in abduction prevention, investigation, and resolution.

(b) Actions by the Secretary of State in response to unresolved cases

(1) Determination of action by the Secretary of State

For each abduction or access case relating to a child whose habitual residence is in the United States that remains pending or is otherwise unresolved on the date that is 12 months after the date on which the Central Authority of the United States submits such case to a foreign country, the Secretary of State shall determine whether the government of such foreign country has failed to take appropriate steps to resolve the case. If the Secretary of State determines that such failure occurred, the Secretary should, as expeditiously as practicable—

- (A) take 1 or more of the actions described in subsections (d) and (e) of section 9122 of this title; and

(B) direct the Chief of Mission in that foreign country to directly address the resolution of the case with senior officials in the foreign government.

(2) Authority for delay of action by the Secretary of State

The Secretary of State may delay any action described in paragraph (1) if the Secretary determines that an additional period of time, not to exceed 1 year, will substantially assist in resolving the case.

(3) Report

If the Secretary of State delays any action pursuant to paragraph (2) or decides not to take an action described in subsection (d) or (e) of section 9122 of this title after making the determination described in paragraph (1), the Secretary, not later than 15 days after such delay or decision, shall provide a report to the appropriate congressional committees that details the reasons for delaying action or not taking action, as appropriate.

(4) Congressional briefings

At the request of the appropriate congressional committees, the Secretary of State shall provide a detailed briefing, including a written report, if requested, on actions taken to resolve a case or the cause for delay.

(c) Implementation

(1) In general

In carrying out subsection (b), the Secretary of State should—

(A) take 1 or more actions that most appropriately respond to the nature and severity of the governmental failure to resolve the unresolved abduction case; and

(B) seek, to the fullest extent possible—

(i) to initially respond by communicating with the Central Authority of the country; and

(ii) if clause (i) is unsuccessful, to target subsequent actions—

(I) as narrowly as practicable, with respect to the agencies or instrumentalities of the foreign government that are responsible for such failures; and

(II) in ways that respect the separation of powers and independence of the judiciary of the country, as applicable.

(2) Guidelines for actions by the Secretary of State

In addition to the guidelines under paragraph (1), the Secretary of State, in determining whether to take 1 or more actions under paragraphs (5) through (7) of section 9122(d) of this title or section 9122(e) of this title, shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the action or actions;

(B) the humanitarian activities of United States and nongovernmental organizations in the country; and

(C) the national security interests of the United States.

(Pub. L. 113–150, title II, §201, Aug. 8, 2014, 128 Stat. 1817.)

§ 9122. Actions by the Secretary of State in response to patterns of noncompliance in cases of international child abductions

(a) Response to a pattern of noncompliance

It is the policy of the United States—

(1) to oppose institutional or other systemic failures of foreign governments to fulfill their obligations pursuant to the Hague Abduction Convention or bilateral procedures, as applicable, to resolve abduction and access cases;

(2) to promote reciprocity pursuant to, and in compliance with, the Hague Abduction Convention or bilateral procedures, as appropriate; and

(3) to directly engage with senior foreign government officials to most effectively address patterns of noncompliance.

(b) Determination of countries with patterns of noncompliance in cases of international child abduction

(1) Annual review

Not later than April 30 of each year, the Secretary of State shall—

(A) review the status of abduction and access cases in each foreign country in order to determine whether the government of such country has engaged in a pattern of noncompliance during the preceding 12 months; and

(B) report such determination pursuant to section 9111(f) of this title.

(2) Determinations of responsible parties

The Secretary of State shall seek to determine the agencies or instrumentalities of the government of each country determined to have engaged in a pattern of noncompliance under paragraph (1)(A) that are responsible for such pattern of noncompliance—

(A) to appropriately target actions in response to such noncompliance; and

(B) to engage with senior foreign government officials to effectively address such noncompliance.

(c) Actions by the Secretary of State with respect to a country with a pattern of noncompliance

(1) In general

Not later than 90 days (or 180 days in case of a delay under paragraph (2)) after a country is determined to have been engaged in a pattern of noncompliance under subsection (b)(1)(A), the Secretary of State shall—

(A) take 1 or more of the actions described in subsection (d);

(B) direct the Chief of Mission in that country to directly address the systemic problems that led to such determination; and

(C) inform senior officials in the foreign government of the potential repercussions related to such designation.

(2) Authority for delay of actions by the Secretary of State

The Secretary shall not be required to take action under paragraph (1) until the expiration of a single, additional period of up to 90 days if, on or before the date on which the Secretary of State is required to take such action,

the Secretary determines and certifies to the appropriate congressional committees that such additional period is necessary—

(A) for a continuation of negotiations that have been commenced with the government of a country described in paragraph (1) in order to bring about a cessation of the pattern of noncompliance by such country;

(B) for a review of corrective action taken by a country after the designation of such country as being engaged in a pattern of noncompliance under subsection (b)(1)(A); or

(C) in anticipation that corrective action will be taken by such country during such 90-day period.

(3) Exception for additional action by the Secretary of State

The Secretary of State shall not be required to take additional action under paragraph (1) with respect to a country determined to have been engaged in a persistent pattern of noncompliance if the Secretary—

(A) has taken action pursuant to paragraph (5), (6), or (7) of subsection (d) with respect to such country in the preceding year and such action continues to be in effect;

(B) exercises the waiver under section 9124 of this title and briefs the appropriate congressional committees; or

(C) submits a report to the appropriate congressional committees that—

(i) indicates that such country is subject to multiple, broad-based sanctions; and

(ii) describes how such sanctions satisfy the requirements under this subsection.

(4) Report to Congress

Not later than 90 days after the submission of the Annual Report, the Secretary shall submit a report to Congress on the specific actions taken against countries determined to have been engaged in a pattern of noncompliance under this section.

(d) Description of actions by the Secretary of State in Hague Abduction Convention countries

Except as provided in subsection (f), the actions by the Secretary of State referred to in this subsection are—

(1) a demarche;

(2) an official public statement detailing unresolved cases;

(3) a public condemnation;

(4) a delay or cancellation of 1 or more bilateral working, official, or state visits;

(5) the withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n);

(6) the withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304);

(7) the withdrawal, limitation, or suspension of assistance to the central government of a country pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the Economic Support Fund); and

(8) a formal request to the foreign country concerned to extradite an individual who is

engaged in abduction and who has been formally accused of, charged with, or convicted of an extraditable offense.

(e) Commensurate action

(1) In general

Except as provided in subsection (f), the Secretary of State may substitute any other action authorized by law for any action described in subsection (d) if the Secretary determines that such action—

(A) is commensurate in effect to the action substituted; and

(B) would substantially further the purposes of this chapter.

(2) Notification

If commensurate action is taken pursuant to this subsection, the Secretary shall submit a report to the appropriate congressional committees that—

(A) describes such action;

(B) explains the reasons for taking such action; and

(C) specifically describes the basis for the Secretary's determination under paragraph (1) that such action—

(i) is commensurate with the action substituted; and

(ii) substantially furthers the purposes of this chapter.

(f) Resolution

The Secretary of State shall seek to take all appropriate actions authorized by law to resolve the unresolved case or to obtain the cessation of such pattern of noncompliance, as applicable.

(g) Humanitarian exception

Any action taken pursuant to subsection (d) or (e) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other life-saving humanitarian assistance.

(Pub. L. 113–150, title II, §202, Aug. 8, 2014, 128 Stat. 1818.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (d)(7), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Chapter 4 of part II of the Act is classified generally to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This chapter, referred to in subsec. (e)(1)(B), (2)(C)(ii), was in the original “this Act”, meaning Pub. L. 113–150, Aug. 8, 2014, 126 Stat. 1807, known as the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

§ 9123. Consultations with foreign governments

As soon as practicable after the Secretary of State makes a determination under section 9121 of this title in response to a failure to resolve unresolved abduction cases or the Secretary takes an action under subsection (d) or (e) of section 9122 of this title, based on a pattern of noncompliance, the Secretary shall request consultations with the government of such country regarding the situation giving rise to such determination.

(Pub. L. 113–150, title II, §203, Aug. 8, 2014, 128 Stat. 1820.)

§ 9124. Waiver by the Secretary of State

(a) In general

Subject to subsection (b), the Secretary of State may waive the application of any of the actions described in subsections (d) and (e) of section 9122 of this title with respect to a country if the Secretary determines and notifies the appropriate congressional committees that—

(1) the government of such country—

(A) has satisfactorily resolved the abduction cases giving rise to the application of any of such actions; or

(B) has ended such country's pattern of noncompliance; or

(2) the national security interest of the United States requires the exercise of such waiver authority.

(b) Congressional notification

Not later than the date on which the Secretary of State exercises the waiver authority under subsection (a), the Secretary shall—

(1) notify the appropriate congressional committees of such waiver; and

(2) provide such committees with a detailed justification for such waiver, including an explanation of the steps the noncompliant government has taken—

(A) to resolve abductions cases; or

(B) to end its pattern of noncompliance.

(c) Publication in Federal Register

Subject to subsection (d), the Secretary of State shall ensure that each waiver determination under this section—

(1) is published in the Federal Register; or

(2) is posted on the Department of State website.

(d) Limited disclosure of information

The Secretary of State may limit the publication of information under subsection (c) in the same manner and to the same extent as the President may limit the publication of findings and determinations described in section 2414(c) of this title, if the Secretary determines that the publication of such information would be harmful to the national security of the United States and would not further the purposes of this chapter.

(Pub. L. 113–150, title II, §204, Aug. 8, 2014, 128 Stat. 1821.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original “this Act”, meaning Pub. L. 113–150, Aug. 8, 2014, 126 Stat. 1807, known as the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

§ 9125. Termination of actions by the Secretary of State

Any specific action taken under this Act or any amendment made by this Act with respect to a foreign country shall terminate on the date

on which the Secretary of State submits a written certification to Congress that the government of such country—

- (1) has resolved any unresolved abduction case that gave rise to such specific action; or
- (2) has taken substantial and verifiable steps to correct such country's persistent pattern of noncompliance that gave rise to such specific action, as applicable.

(Pub. L. 113–150, title II, §205, Aug. 8, 2014, 128 Stat. 1821.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 113–150, Aug. 8, 2014, 126 Stat. 1807, known as the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

SUBCHAPTER III—PREVENTION OF INTERNATIONAL CHILD ABDUCTION

§ 9141. Authorization for judicial training on international parental child abduction

(a) In general

The Secretary of State, subject to the availability of appropriations, shall seek to provide training, directly or through another government agency or nongovernmental organizations, on the effective handling of parental abduction cases to the judicial and administrative authorities in countries—

- (1) in which a significant number of unresolved abduction cases are pending; or
- (2) that have been designated as having a pattern of noncompliance under section 9122(b) of this title.

(b) Strategy requirement

Not later than 180 days after August 8, 2014, the President shall submit a strategy to carry out the activities described in subsection (a) to—

- (1) the Committee on Foreign Relations of the Senate;
- (2) the Committee on Foreign Affairs of the House of Representatives;
- (3) the Committee on Appropriations of the Senate; and
- (4) the Committee on Appropriations of the House of Representatives.

(c) Authorization of appropriations

(1) In general

There is authorized to be appropriated to the Secretary of State \$1,000,000 for each of the fiscal years 2015 and 2016 to carry out subsection (a).

(2) Use of funds

Amounts appropriated for the activities set forth in subsection (a) shall be used pursuant to the authorization and requirements under this section.

(Pub. L. 113–150, title III, §302, Aug. 8, 2014, 128 Stat. 1822.)

DELEGATION OF AUTHORITY PURSUANT TO SECTION 302(b) OF THE SEAN AND DAVID GOLDMAN INTERNATIONAL CHILD ABDUCTION PREVENTION AND RETURN ACT OF 2014

Memorandum of President of the United States, May 7, 2015, 80 F.R. 32849, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate the functions and authorities vested in the President by section 302(b) of the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014 (Public Law 113–150) (the “Act”), to the Secretary of State.

Any reference in this memorandum to the Act shall be deemed to be a reference to any future act that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.